

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANDREY GONCHAROV	)	
Petitioner,	)	
	)	
vs.	)	C.A. No. 04-371 ERIE
	)	
THOMAS HOGAN	)	
Respondent	)	

RULE AND ORDER

AND NOW, this 5th day of July, 2005, after Petitioner presented a petition for a writ of habeas corpus,

IT IS HEREBY ORDERED that the Report and Recommendation dated May 19, 2005 [Document # 11] is VACATED as Petitioner has now paid the filing fee.

IT IS FURTHER ORDERED that the United States Marshal shall make service of this order, together with a copy of the petition, upon the Respondent, the District Attorney of Erie County, and the Attorney General of the Commonwealth of Pennsylvania.

IT IS FURTHER ORDERED that within twenty days of service of this order, the respondent, and the District Attorney of Erie County, Pennsylvania shall respond to the allegations of the petition for writ of habeas corpus. The District Attorney shall address all of the following: 1) the statute of limitations, 28 U.S.C. § 2254(d)(1)-(2); 2) the exhaustion of state court remedies as required by 28 U.S.C. §§ 2254(b) and Picard v. Connor, 404 U.S. 270 (1971); Rose v. Lundy, 455 U.S. 509 (1982); United States ex. rel. Trantino v. Hatrack, 563 F.2d 86 (3d Cir. 1977); Zicarelli v. Gray, 543 F.2d 466 (3d Cir. 1976), with respect to each claim raised by the Petitioner and, if appropriate, whether any of the claims were procedurally defaulted, and 3)

the merits of the petition. The answer shall comply with Rule 5 of the Rules Governing Section 2254 cases in the United States District Courts. The District Attorney shall furnish this court with the state court records, including all transcripts, all briefs filed by the Petitioner, and all written opinions of the state courts/agencies as well as certified copies of the docket sheets of all the state courts/agencies involved.

**IT IS FURTHER ORDERED that the Respondent must address the propriety of a transfer pursuant to the Real ID Act of 2005, 8 U.S.C.A. § 1252 (effective May 11, 2005).**

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.1.3(B) of the Local Rules for Magistrates. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

S/ Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
Chief United States Magistrate Judge

cc: Andrey Goncharov, 85050  
York County Prison  
3400 Concord Road  
York, PA 17402  
  
District Attorney of Erie County  
Attorney General of Pennsylvania